



Department of Justice

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**FORMER TOP ADM EXECUTIVES, JAPANESE EXECUTIVE,
INDICTED IN LYSINE PRICE FIXING CONSPIRACY**

**Korean Company Also Charged: Agrees to Plead Guilty, Pay Fine
and Cooperate with the Government's Investigation**

WASHINGTON -- A Chicago federal grand jury indicted three former top Archer Daniels Midland Co. executives and one Japanese executive today for conspiring to fix prices and allocate sales in the lysine market worldwide, the Department of Justice announced. A Korean company also agreed to plead guilty to separate charges and pay a \$1.25 million fine for its role in the conspiracy.

This is the third round of charges brought as a result of the Department's investigation into the food and feed additives industry. In October, ADM pleaded guilty and was sentenced to pay a \$100 million criminal fine--the largest criminal antitrust fine ever--for its role in two international conspiracies to fix prices and allocate sales in the lysine and citric acid markets worldwide.

Today's indictment charged the following individuals:

- Michael D. Andreas of Decatur, Illinois, executive vice president of ADM (on leave).
- Mark E. Whitacre of Chapel Hill, North Carolina, former president of ADM's BioProducts Division.

- Terrance S. Wilson of Decatur, Illinois, former group vice president and president of ADM's Corn Processing Division.
- Kazutoshi Yamada of Tokyo, Japan, managing director of Ajinomoto Co. Inc.

"These charges should signal to business executives, both at home and abroad, that we will vigorously pursue individuals involved in international cartels wherever they are," said Joel I. Klein, Acting Assistant Attorney General in charge of the Department's Antitrust Division.

Klein said that the Department's food and feed additives investigations into the lysine, citric acid, and high fructose corn syrup markets continues.

The indictment charges that the defendants conspired with four previously charged companies--ADM, Ajinomoto Co. Inc., Kyowa Hakko Kogyo Co. Ltd., and Sewon America Inc.--and other unnamed corporate and individual co-conspirators to suppress competition in the lysine market in the U.S. and elsewhere by fixing the price and allocating sales volumes from June 1992 through June 27, 1995 in violation of the Sherman Antitrust Act.

Also today, Cheil Jedang Ltd. of Seoul, Korea, agreed to plead guilty and pay a \$1.25 million fine for participating in the lysine price fixing and sales volume allocation conspiracy. The plea agreement must be approved by the court.

The indictment and the criminal information against Cheil, which were both filed today in U.S. District Court in Chicago, charge that the defendants met with their co-conspirators in the lysine market to set the price and allocate the sales volumes of lysine. The defendants will be arraigned at a later date in

federal court in Chicago. Lysine, a \$600 million a year industry, is used by farmers as a feed additive to ensure the proper growth of swine and poultry.

The indictment and information further charge that the defendants and co-conspirators:

- Agreed to charge lysine prices at agreed-upon levels and to increase those prices accordingly.
- Agreed to allocate among the corporate conspirators the volume of lysine to be sold by each.
- Issued price announcements and price quotations in accordance with the agreements.
- Participated in meetings and conversations for the purpose of monitoring and enforcing adherence to the agreed upon prices and sales volumes.

"Today's charges demonstrate that regardless of how much money a corporation pays in a fine to settle criminal charges, the individual executives at that corporation who have violated the antitrust laws will not escape prosecution for their wrongful conduct," said Gary R. Spratling, the Antitrust Division's Deputy Assistant Attorney General for Criminal Enforcement.

Today's charges arose in connection with an extensive investigation into illegal, collusive practices by the producers of lysine being conducted by the Chicago Field Office of the Antitrust Division, the office of United States Attorney James B. Burns in Chicago, and the Federal Bureau of Investigation in Springfield, Illinois.

All of the defendants previously charged in this price fixing and sales volume allocation conspiracy have agreed to cooperate with the government's continuing investigation. The

companies and individuals already charged in the lysine conspiracy are:

- ADM, which pleaded guilty on October 15 to charges that it also participated in a separate price fixing and sales volume allocation conspiracy in the citric acid market. The company was sentenced to pay a record \$100 million in criminal fines as a result of its convictions for the two conspiracies. ADM is based in Decatur, Illinois.
- Ajinomoto Co. Inc. of Tokyo, Japan, and Kanji Mimoto, its former general manager of the Feed Additives Division and current associate general manager of the International Division. Mimoto lives in Japan.
- Kyowa Hakko Kogyo Co. Ltd. of Tokyo, Japan and Masaru Yamamoto, its former general manager of the Agricultural Products Department and current general manager of the Food Division. Yamamoto lives in Japan.
- Sewon America Inc., located in Paramus, New Jersey, and Jhom Su Kim, its president. Sewon America is a subsidiary of Sewon Company Ltd., located in Seoul, South Korea. Kim is from Korea and currently lives in Ridgewood, New Jersey.

"All of the previously charged corporate and individual defendants agreed to cooperate fully with the Department's investigation by providing documents and witnesses who will be available to testify in the United States," said James B. Burns, U.S. Attorney for the Northern District of Illinois. "Through their cooperation, we have already received valuable information."

Spratling said that Cheil authorized the Department to disclose the basic terms of the company's plea agreement. Cheil also agreed to cooperate with the investigation and prosecution by providing documents and witnesses who will be available to testify in the United States.

The defendants are charged with violating Section 1 of the Sherman Act, which carries a maximum fine of \$10 million for

corporations and a maximum penalty of three years imprisonment and a \$350,000 fine for individuals.

The fines for both corporations and individuals may be increased to twice the gain derived from the crime by the defendant or twice the loss suffered by the victims of the crime, if either of those amounts is greater than the statutory maximum fine of \$10 million for corporations and \$350,000 for individuals.

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